

106TH CONGRESS  
2D SESSION

# H. R. 4570

To amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2000

Ms. PRYCE of Ohio (for herself, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. BECERRA, Mr. BLAGOJEVICH, Mr. CAMPBELL, Mr. DIXON, Mr. EVERETT, Mr. FROST, Mr. GEJDENSON, Mrs. JOHNSON of Connecticut, Mr. LARSON, Ms. LEE, Mr. MATSUI, Mrs. MORELLA, Ms. NORTON, Ms. PELOSI, Mr. PETRI, Mr. RAMSTAD, Mr. RANGEL, Mr. RODRIGUEZ, Mr. SANDERS, Mrs. THURMAN, Mr. TRAFICANT, Ms. VELAZQUEZ, Mr. VENTO, Mr. WEXLER, and Mr. WISE) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Civil Rights Tax Fair-  
3 ness Act of 2000”.

4 **SEC. 2. EXCLUSION FROM GROSS INCOME FOR AMOUNTS**  
5 **RECEIVED ON ACCOUNT OF CERTAIN UNLAW-**  
6 **FUL DISCRIMINATION.**

7       (a) IN GENERAL.—Part III of subchapter B of chap-  
8 ter 1 of the Internal Revenue Code of 1986 (relating to  
9 items specifically excluded from gross income) is amended  
10 by redesignating section 139 as section 140) and by in-  
11 serting after section 138 the following new section:

12 **“SEC. 139. AMOUNTS RECEIVED ON ACCOUNT OF CERTAIN**  
13 **UNLAWFUL DISCRIMINATION.**

14       “(a) IN GENERAL.—

15               “(1) EXCLUSION.—Gross income does not in-  
16 clude amounts received by a claimant (whether by  
17 suit or agreement and whether as lump sums or  
18 periodic payments) on account of a claim of unlawful  
19 discrimination.

20               “(2) AMOUNTS COVERED.—For purposes of  
21 paragraph (1), the term ‘amounts’ does not  
22 include—

23                       “(A) backpay or frontpay, as defined in  
24 section 1302(b), or

25                       “(B) punitive damages.

1       “(b) UNLAWFUL DISCRIMINATION DEFINED.—For  
2 purposes of this section, the term ‘unlawful discrimination’  
3 means an act that is unlawful under any of the following:

4               “(1) Section 302 of the Civil Rights Act of  
5 1991 (2 U.S.C. 1202).

6               “(2) Section 201, 202, 203, 204, 205, 206, or  
7 207 of the Congressional Accountability Act of 1995  
8 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or  
9 1317).

10              “(3) The Fair Labor Standards Act of 1938  
11 (29 U.S.C. 201 et seq.).

12              “(4) Section 4 or 15 of the Age Discrimination  
13 in Employment Act of 1967 (29 U.S.C. 623 or  
14 633a).

15              “(5) Section 501 or 504 of the Rehabilitation  
16 Act of 1973 (29 U.S.C. 791 or 794).

17              “(6) Section 510 of the Employee Retirement  
18 Income Security Act of 1974 (29 U.S.C. 1140).

19              “(7) Title IX of the Education Amendments of  
20 1972 (29 U.S.C. 1681 et seq.).

21              “(8) The Employee Polygraph Protection Act of  
22 1988 (29 U.S.C. 201 et seq.).

23              “(9) The Worker Adjustment and Retraining  
24 Notification Act (29 U.S.C. 2102 et seq.).

1           “(10) Section 105 of the Family and Medical  
2       Leave Act of 1993 (29 U.S.C. 2615).

3           “(11) Chapter 43 of title 38, United States  
4       Code (relating to employment and reemployment  
5       rights of members of the uniformed services).

6           “(12) Section 1977, 1979, or 1980 of the Re-  
7       vised Statutes (42 U.S.C. 1981, 1983, or 1985).

8           “(13) Section 703, 704, or 717 of the Civil  
9       Rights Act of 1964 (42 U.S.C. 2000e–2, 2000e–3,  
10      or 2000e–16).

11          “(14) Section 804 or 805 of the Fair Housing  
12      Act (42 U.S.C. 3604 or 3605).

13          “(15) Section 102, 202, 302, or 503 of the  
14      Americans with Disabilities Act of 1990 (42 U.S.C.  
15      12112, 12132, 12182, or 12203).

16          “(16) Section 40302 of the Violence Against  
17      Women Act of 1994 (42 U.S.C. 13981).

18          “(17) Any provision of Federal law (popularly  
19      known as whistleblower protection provisions) pro-  
20      hibiting the discharge of an employee, the discrimi-  
21      nation against an employee, or any other form of re-  
22      taliation or reprisal against an employee for assert-  
23      ing rights or taking other actions permitted under  
24      Federal law.

“Sec. 139. Amounts received on account of certain unlawful discrimination.”

16 SEC. 3. LIMITATION ON TAX BASED ON INCOME AVER-  
17 AGING FOR BACKPAY AND FRONTPAY RE-  
18 CEIVED ON ACCOUNT OF CERTAIN UNLAW-  
19 FUL EMPLOYMENT DISCRIMINATION.

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1 **“SEC. 1302. INCOME FROM BACKPAY AND FRONTPAY RE-**  
 2 **CEIVED ON ACCOUNT OF CERTAIN UNLAW-**  
 3 **FUL EMPLOYMENT DISCRIMINATION.**

4 “(a) GENERAL RULE.—If employment discrimination  
 5 backpay or frontpay is received by a taxpayer during a  
 6 taxable year, the tax imposed by this chapter for such tax-  
 7 able year shall not exceed the sum of—

8 “(1) the tax which would be so imposed if—

9 “(A) no amount of such backpay or  
 10 frontpay were included in gross income for such  
 11 year, and

12 “(B) no deduction were allowed for such  
 13 year for expenses (otherwise allowable as a de-  
 14 duction to the taxpayer for such year) in con-  
 15 nection with making or prosecuting any claim  
 16 of unlawful employment discrimination by or on  
 17 behalf of the taxpayer, plus

18 “(2) the product of—

19 “(A) the number of years in the backpay  
 20 period and frontpay period, and

21 “(B) the amount by which the tax deter-  
 22 mined under paragraph (1) would increase if  
 23 the amount on which such tax is determined  
 24 were increased by the average annual net back-  
 25 pay and frontpay amount.

26 “(b) DEFINITIONS.—For purposes of this section—

1           “(1) EMPLOYMENT DISCRIMINATION BACKPAY  
2           OR FRONTPAY.—The term ‘employment discrimina-  
3           tion backpay or frontpay’ means backpay or  
4           frontpay receivable (whether as lump sums or peri-  
5           odic payments) on account of a claim of unlawful  
6           employment discrimination.

7           “(2) UNLAWFUL EMPLOYMENT DISCRIMINA-  
8           TION.—The term ‘unlawful employment discrimina-  
9           tion’ has the meaning provided the term ‘unlawful  
10          discrimination’ in section 139(b).

11          “(3) BACKPAY AND FRONTPAY.—The terms  
12          ‘backpay’ and ‘frontpay’ mean amounts includible in  
13          gross income in the taxable year—

14                 “(A) as compensation which is  
15                 attributable—

16                         “(i) in the case of backpay, to services  
17                         performed, or that would have been per-  
18                         formed but for a claimed violation of law,  
19                         as an employee, former employee, or pro-  
20                         spective employee before such taxable year  
21                         for the taxpayer’s employer, former em-  
22                         ployer, or prospective employer; and

23                         “(ii) in the case of frontpay, to em-  
24                         ployment that would have been performed  
25                         but for a claimed violation of law, in a tax-

1           able year or taxable years following the  
2           taxable year; and

3           “(B) which are—

4                   “(i) ordered, recommended, or ap-  
5                   proved by any governmental entity to sat-  
6                   isfy a claim for a violation of law, or

7                   “(ii) received from the settlement of  
8                   such a claim.

9           “(4) BACKPAY PERIOD.—The term ‘backpay pe-  
10          riod’ means the period during which services are  
11          performed (or would have been performed) to which  
12          backpay is attributable. If such period is not equal  
13          to a whole number of taxable years, such period  
14          shall be increased to the next highest number of  
15          whole taxable years.

16          “(5) FRONTPAY PERIOD.—The term ‘frontpay  
17          period’ means the period of foregone employment to  
18          which frontpay is attributable. If such period is not  
19          equal to a whole number of taxable years, such pe-  
20          riod shall be increased to the next highest number  
21          of whole taxable years.

22          “(6) AVERAGE ANNUAL NET BACKPAY AND  
23          FRONTPAY AMOUNT.—The term ‘average annual net  
24          backpay and frontpay amount’ means the amount  
25          equal to—



1 “(A) the excess of—

2 “(i) employment discrimination back-  
3 pay and frontpay, over

4 “(ii) the amount of deductions that  
5 would have been allowable but for sub-  
6 section (a)(1)(B), divided by

7 “(B) the number of years in the backpay  
8 period and frontpay period.”.

9 (b) CLERICAL AMENDMENT.—The table of sections  
10 for part I of subchapter Q of chapter 1 of such Code is  
11 amended by inserting after section 1301 the following new  
12 item:

“Sec. 1302. Income from backpay or frontpay received on account  
of certain unlawful employment discrimination.”

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to amounts received in taxable  
15 years beginning after December 31, 2000.

16 **SEC. 3. INCOME AVERAGING FOR BACKPAY AND FRONTPAY**  
17 **RECEIVED ON ACCOUNT OF CERTAIN UNLAW-**  
18 **FUL EMPLOYMENT DISCRIMINATION NOT TO**  
19 **INCREASE ALTERNATIVE MINIMUM TAX LI-**  
20 **ABILITY.**

21 (a) IN GENERAL.—Section 55(c) of the Internal Rev-  
22 enue Code of 1986 (defining regular tax) is amended by  
23 redesignating paragraph (2) as paragraph (3) and by in-  
24 serting after paragraph (1) the following:

1           “(2) COORDINATION WITH INCOME AVERAGING  
2           FOR AMOUNTS RECEIVED ON ACCOUNT OF EMPLOY-  
3           MENT DISCRIMINATION.—Solely for purposes of this  
4           section, section 1302 (relating to averaging of in-  
5           come from backpay or frontpay received on account  
6           of certain unlawful employment discrimination) shall  
7           not apply in computing the regular tax.”.

8           (b) EFFECTIVE DATE.—The amendment made by  
9           this section shall apply to taxable years beginning after  
10          December 31, 2000.

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